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July 19, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

HAND DELIVERY

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Ex Parte Presentation
CC Dkt. No. 96-98

Dear Mr Caton:

Enclosed please find two copies of a written *ex parte* presentation of the Commerical Internet eXchange Association for inclusion in the above-referenced docket. Should you have any questions concerning this matter, please feel free to contact the undersigned.

Sincerely,


Mark J. O'Connor

Enclosures

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Regina M. Keeney
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Re: Ex Parte Presentation
CC Docket No 96-98

Dear Ms. Keeney:

This letter is submitted on behalf of the Commercial Internet eXchange Association ("CIX") concerning the rules to be promulgated in the above-captioned docket that will require incumbent local exchange carriers to offer unbundled network elements pursuant to 47 U.S.C. §§ 251(c)(3) & 153(29). CIX urges the Commission to adopt rules that would permit Internet Service Providers ("ISPs") to obtain unbundled network elements and collocation on the same terms and conditions as other providers.

CIX is a non-profit organization with a membership of nearly 200 service providers offering access to the Internet for customers in the United States and throughout the world. (A copy of a recent CIX membership list is attached hereto.)¹ As a non-profit organization for the industry, CIX works to facilitate global connectivity among commercial ISPs, and open environments for Internet commercialization and interconnection.

¹ These reply comments represent the views of CIX as a trade organization and may not reflect the views of the individual members.

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Unbundled network elements such as local loops and ISDN facilities are critical components of the Public Switched Telephone Network used by ISPs to offer Internet access for end-users throughout the country. In addition, with many RBOCs and other facilities-based providers beginning their own integrated ISP services, it is important to maintain competition in the market by ensuring that independent ISPs have the same access to unbundled elements and collocation as RBOC-affiliated ISPs enjoy.

ISP access to unbundled elements would also be consistent with decades of pro-competitive Commission precedent to promote access to the incumbent LEC's network to the fullest extent feasible for all providers. For example, the Commission's Comparably Efficient Interconnection ("CEI") orders, stemming from the Computer Inquiry III decisions, have attempted to keep the enhanced services market competitive by requiring that RBOCs offer to independent enhanced service providers the same basic services used in their own integrated enhanced service offering. Further, the Commission's Open Network Architecture ("ONA") orders have long attempted to transform the RBOC network into a platform of unbundled basic services available to all providers, including enhanced service providers, to the greatest extent technically feasible.

The Commission should build on the fundamental unbundling principles embodied in the CEI and ONA precedent as it interprets Section 251. CIX believes that the Section 251(c) requirement for incumbent LECs to offer unbundled access "to any requesting telecommunications carrier" does not restrict the Commission from extending its rule to include ISPs for the reasons stated herein, regardless of whether ISPs may be deemed "information service" providers or "telecommunications carriers." We note that, consistent with the Commission's CEI and ONA precedent, Section 251(g) maintains "the same equal access and nondiscrimination interconnection restrictions and obligations" protecting information service providers prior to the 1996 Act (*i.e.*, CEI and ONA) "until such regulations and obligations are explicitly superseded by regulations prescribed by the Commission." 47 U.S.C. § 251(g). Viewing Section 251 as a whole, the statute permits and even encourages the Commission to extend unbundling and interconnection rights implemented under the 1996 Act to all providers, including information service providers. Otherwise, both incumbent LECs and the Commission will be left with two separate unbundling and interconnection standards. The 1996 Act and common sense suggest that this awkward result is easily resolved by extending the unbundling and interconnection requirements implemented under Section 251(c) to all providers, including ISPs.

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Permitting ISP collocation and access to the unbundled incumbent LEC network also comports with the 1996 Act purpose to foster vibrant competition between providers of Internet services. Indeed, Congress explicitly found that it "is the policy of the United States -- (1) to promote the continued development of the Internet and other interactive computer services . . . ; (2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services" 47 U.S.C. § 230(b)(1)&(2). Unbundled access to LEC network services will foster dynamic competition between independent ISPs, RBOC-affiliated ISPs, and other facilities-based providers.

For these reasons, CIX urges the Commission to develop interconnection and network unbundling rules that support the expanding and competitive nature of the Internet. In accordance with the Commission's *ex parte* rules, two copies of this letter will be submitted to the Commission's Secretary

Sincerely,



Ronald L. Plesser

Mark J. O'Connor

James J. Halpert

Attorneys for the Commercial Internet

eXchange Association

/mjo

cc: Robert Pepper
James Schlichting
Eliot Maxwell
Jane Jackson
Mark Corbitt
Kevin Werbach

WHO MAY JOIN THE CIX?

Membership in the Commercial Internet eXchange is open to organizations which offer TCP/IP or OSI public data internetworking services to the general public in multiple geographic regions. Organizations or individuals seeking Internet connections are urged to contact CIX members directly for further information. Qualified public data Internet service providers interested in exchanging commercial traffic with other providers on a peer basis are most welcome and encouraged to become CIX Association members.

WHAT NETWORKS ARE MEMBERS OF CIX?

Last Updated: May 8, 1996

- o 2020Net - Eastern U.S.
- o 3C Europe Ltd. - United Kingdom
- o 3 Web Corp - Japan
- o ACSI - Southern U.S.
- o Advantis(IBM Global Network) - National U.S.
- o Agate Internet Services - Bangor, Maine
- o American Network - New York
- o ANS CO+RE Systems, Inc. - National U.S.
- o Apex Global Info Systems(AGIS) - National U.S.
- o ASAHI Net - Japan
- o Ashton Communications - Mexico & Southwest U.S.
- o Asociados Espada C.A. - Venezuela
- o ATMNet, LLC - California and Florida
- o Aurora.Net - Canada
- o a2i Communications - San Francisco Bay Area
- o alpha-web - Japan
- o BARRNet - Northern California
- o BEKKOAME INTERNET INC. - Japan
- o BTnet - United Kingdom
- o Bull HN Information Systems Inc. - Massachusetts
- o Cable Internet - United Kingdom
- o Cable Online Ltd. - United Kingdom
- o Cable&Wireless NetWorth - National U.S.
- o Capcon Library Network - Virginia, Maryland
- o CentNet - Boston Area
- o CERFnet - West Coast U.S.
- o Commonwealth Telephone Company - Pennsylvania
- o Compuserve - National U.S. & International
- o Connect.Com.au - Australia
- o CR Internet - Japan
- o CRL - National U.S.
- o Crocker Communications - Massachusetts
- o Crossroads Communications - National U.S.
- o CTS Network Services - California
- o Cybergate - Florida, Southeast U.S.
- o Dart Net Ltd. - United Kingdom
- o Datalytics - Midwest U.S.
- o DataNet - Hungary
- o Data Research Associates - National U.S., Canada, Far East, Europe and South America
- o DataXchange - Florida
- o Dayton Network Access Company - Ohio
- o Demon Internet - United Kingdom
- o Destek Group, Inc. - Northern New England
- o Digital Express Group - East Coast, U.S.
- o DirectNet Corp. - National U.S.
- o EasyNet Group, Plc - United Kingdom
- o EMI Communications - National U.S.
- o Emirates Internet - United Arab Emirates
- o EskimoNet - Western Washington State
- o EUnet - Europe
- o EuroNet Internet - Europe
- o Exodus Communications - California
- o EZnet - New York
- o FIBRCOM - Southern U.S. and Mexico
- o Fibernet - National U.S.
- o Fujitsu - Japan
- o Globalcenter.net - National U.S. and Canada
- o GridNet International - Southeastern U.S.
- o Hewlett Packard Labs - United Kingdom
- o HiNet - Taiwan
- o Hitachi, Ltd. - Japan
- o HLC-Internet - National U.S.
- o Hong Kong Supernet - Hong Kong
- o HookupNet - Canada
- o I-2000 - Northeastern U.S.
- o ICon International - National U.S.
- o IJ - Japan
- o I-Net Technologies - Korea
- o InfoTek - South Africa
- o INS Info Services - Iowa/Midwest
- o INSINC - Canada
- o InterCon - Virginia
- o Internet Africa - South Africa
- o Internet Atlanta, Inc. - Southeast U.S.
- o Internet Corporativo - Mexico
- o Internet Exchange Europe - Netherlands
- o InternetKDD - Japan
- o The Internet Mainstreet - San Francisco Bay Area, CA
- o Internet Media Network, Inc. - Southern CA.
- o Internet Oklahoma - Oklahoma
- o Internet Public Access Corp. - San Jose, California
- o Interpath - Southeast U.S.
- o InterServe Communication - Hong Kong
- o ITnet - Italy
- o IUnet - Italy
- o JC Information Systems - California
- o JTNET - Japan
- o Kornet - Korea
- o LDS-iAmerica - National U.S.

- o Lincoln Telephone & Telegraph - Nebraska
- o Logical Net - New York
- o LYNX - Bermuda
- o MCI - National U.S. & International
- o MISNET - Kentucky
- o NEARNET - New England
- o NEC - Japan
- o Net 99 - National U.S. and International
- o NETCOM - National U.S.
- o NetDirect Internet - United Kingdom
- o NetNet, Inc. - Wisconsin
- o NetVision - Israel
- o Netway Communications Inc. - California
- o New York Net - New York
- o Nissan Information Network Co., Ltd. - Japan
- o Nordic Carriers - Scandinavia
- o NorthWestNet - Northwest U.S.
- o Novia Internetworking - Nebraska
- o OCTACON - United Kingdom
- o Open Business Systems - Illinois
- o Pacific Bell Internet - California
- o PearlVision (PEARL-NET) - Japan
- o Pilot Network Services - San Francisco Bay Area
- o Planet Online Limited - United Kingdom
- o PSINet - National U.S. and Japan
- o Qwest Communications - Western U.S.
- o RACSAnet - Costa Rica
- o RGNet - Oregon/California
- o RIMNET - Japan
- o SARENET - Spain
- o Singapore Telecom - Singapore
- o Sovam Teleport - Russia
- o SpinNet (AT&T Jens) - Japan
- o SprintLink - National U.S.
- o Sun Microsystems Inc. - National U.S.
- o SURAnet - Southeast U.S.
- o Synergy Communications - National U.S.
- o Tachyon Communications Corp. - Florida
- o TCHUdata - Kenya, Africa
- o TheOnRamp Group, Inc. - National U.S.
- o ThoughtPort - National U.S.
- o TogetherNet - Vermont and New York City
- o Tokai Communication Platform Network(TCP-Net) - Japan
- o TokyoNet - Japan
- o Total Connectivity Providers - United Kingdom
- o TWICS - Japan
- o U-NET - United Kingdom
- o Unipalm PIPEX - United Kingdom
- o US Cyber - National U.S.
- o USIT - Tennessee
- o UUNET Technologies, Inc. - National U.S.
- o Vision Network Limited - Hong Kong
- o West Publishing Corporation - Minnesota
- o WW Comunicaciones - Guatemala, Honduras, and El Salvador

Additional networks are joining each month.